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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

SMITHKLINE BEECHAM CORPORATION)
d/b/a GLAXOSMITHKLINE,)

Plaintiff,)

v.)

ABBOTT LABORATORIES,)

Defendant.)

Case No. C07-5702 (CW)
(Consolidated Cases)

Related per November 19, 2007 Order to
Case No. C04-1511 (CW)

**STIPULATION EXTENDING MOTION
TO COMPEL DEADLINES RELATING
TO CERTAIN FACT DISCOVERY
ISSUES**

STIPULATION EXTENDING MOTION TO COMPEL DEADLINES RELATING
TO CERTAIN FACT DISCOVERY ISSUES
CASE No. C07-5702 (CW)

1 WHEREAS, the parties completed fact discovery on February 27, 2009, with the exception
2 of certain issues for which this Court has extended the discovery deadline in its Orders dated
3 February 25, 2009 (Dkt. 130), March 13, 2009 (Dkt. 142), and March 17, 2009 (Dkt. 147);

4 WHEREAS, the current deadline for motions to compel relating to written discovery served
5 in January 2009 by Abbott Laboratories on GlaxoSmithKline, and by GlaxoSmithKline on Abbott,
6 as set out in the February 25, 2009 Order, is March 20, 2009;

7 WHEREAS, the current deadline for motions relating to Abbott's Notice of 30(b)(6)
8 Deposition, as set out in the February 25, 2009 Order, is March 20, 2009;

9 WHEREAS, the current deadline for motions to compel relating to certain enumerated
10 potential deficiencies relating to each parties' production of documents, as set forth in the March 13,
11 2009 Order, is March 20, 2009.

12 WHEREAS, the current deadline for Abbott to respond to GlaxoSmithKline's Second Set of
13 Requests for Admissions, as set out in the March 17, 2009 Order, is March 20, 2009;

14 WHEREAS, the current deadline for GlaxoSmithKline to move to compel Abbott to provide
15 responses to GlaxoSmithKline's Second Set of Requests for Admissions, as set out in the February
16 25, 2009 Order, is March 27, 2009;

17 WHEREAS, the parties are continuing to discuss resolutions to their disputes concerning the
18 discovery referenced herein, and an additional, modest extension will hopefully allow the parties to
19 resolve any disagreements without being forced to seek this Court's intervention;

20 WHEREAS, in light of the Court's March 18, 2009 Order staying this case pending the
21 interlocutory appeal in the related *Doe* case, a brief extension will not affect the other scheduled
22 dates previously set by this Court (including expert discovery, summary judgment, and trial).

23 **IT IS HEREBY STIPULATED AND AGREED:**

24 1. Abbott will have until April 21, 2009 to respond to GlaxoSmithKline's Second Set of
25 Requests for Admissions or seek relief from the Court regarding those admissions. Any motion
26 seeking relief from responding to GSK's Second Set of Requests for Admissions should be initially
27 filed in the form of a 2-page letter brief before Judge Zimmerman. GlaxoSmithKline then will have
28

1 until April 28, 2009 to file a motion to compel responses to its Second Set of Requests for
2 Admissions. Any such motion likewise should be initially filed in the form of a 2-page letter brief
3 before Judge Zimmerman.

4 2. Any motion to compel relating to any other written discovery served in January 2009
5 by Abbott on GlaxoSmithKline, or by GlaxoSmithKline on Abbott, shall be filed by April 28, 2009.

6 3. Abbott and GlaxoSmithKline have each identified potential deficiencies related to the
7 other parties' production of documents set forth in the enumerated topics contained in Joshua Y.
8 Karp's March 10, 2009 letter and Michael Bhargava's March 10, 2009 letter. In addition, Abbott
9 has requested, and GlaxoSmithKline has agreed to produce, the Expert Report of Joel W. Hay,
10 Ph.D., dated August 19, 2005, and the Supplemental Expert Report of Joel W. Hay, Ph.D., dated
11 August 29, 2005, from prior litigation between GlaxoSmithKline and AIDS Health Foundation
12 (AHF) once AHF completes its redaction of those documents. The parties agree that any motion to
13 compel, or for a protective order, relating to the issues identified in this paragraph shall be filed by
14 April 28, 2009; and that any such motion should be initially filed in the form of a 2-page letter brief
15 before Judge Zimmerman.

16 4. The parties will continue to work together to attempt to resolve issues concerning
17 Abbott's Notice of 30(b)(6) Deposition and to provide mutually convenient dates for that deposition
18 as soon as possible in March or April 2009. GSK reserves the right to file a motion for protective
19 order as to Abbott's Rule 30(b)(6) deposition notice, and Abbott reserves the right to file a motion to
20 compel on that notice. Any such motion should be initially filed in the form of a 2-page letter brief
21 before Judge Zimmerman on or before April 28, 2009. If GSK files such a motion and Judge
22 Zimmerman allows that deposition to proceed, the parties will work together to provide mutually
23 convenient dates for the GSK witness(es) designated under Rule 30(b)(6) as soon as possible in
24 April or May 2009.

25 5. Nothing in this stipulation shall expand the parties' rights to seek relief by the Court
26 on any discovery issue, except as set forth herein or in the Court's Orders of February 25, 2009,
27 March 13, 2009, and March 17, 2009.

1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

2
3 /s/ Trevor S. Stockinger

4 Trevor Stockinger
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9 Attorney for GSK

/s/ Stephanie S. McCallum

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10 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

11 **3/20/09**

12 Dated: _____

13 

14
15 _____
16 Judge Claudia Wilken
United States District Court
Northern District of California

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